

Office of the Assistant Secretary, HUD

§ 884.215

Lease shall be on the form of Lease included in the Owner's approved Final Proposal and shall otherwise be in conformity with the provisions of this part.

(5) Records on applicant families and approved Families shall be maintained by the Owner so as to provide HUD with racial, ethnic and gender data and shall be retained by the Owner for three years.

(6) In the case of a PHA-Owner project, (i) if the PHA places a Family on its waiting list, it shall notify the Family of the approximate date of availability of a suitable unit insofar as such date can be reasonably determined, and (ii) if the PHA determines that an applicant is ineligible on the basis of income or family composition, or that the PHA is not selecting the applicant for other reasons, the PHA shall promptly send the applicant a letter notifying him of the determination and the reasons and that the applicant has the right within a reasonable time (specified in the letter) to request an informal hearing. If, after conducting such an informal hearing, the PHA determines that the applicant shall not be admitted, the PHA shall so notify the applicant in writing and such notice shall inform the applicant that he has the right to request a review by HUD of the PHA's determination. The procedures of this subparagraph do not preclude the applicant from exercising his other rights if he believes he is being discriminated against on the basis of race, color, creed, religion, sex, or national origin. The PHA shall retain for three years a copy of the application, the letter, the applicant's response if any, the record of any informal hearing, and a statement of final disposition.

(7) See 24 CFR part 5 for the informal review provisions for the denial of a Federal selection preference.

(8) For the informal hearing provisions related to denial of assistance based upon failure to establish citizenship or eligible immigration status, see part 5 of this title for provisions concerning certain assistance for mixed families (families whose members include those with eligible immigration status, and those without eligible im-

migration status) in lieu of denial of assistance.

[41 FR 47168, Oct. 27, 1976. Redesignated at 45 FR 6909, Jan. 30, 1980, and amended at 53 FR 1162, Jan. 15, 1988; 53 FR 6601, Mar. 2, 1988; 60 FR 14845, Mar. 20, 1995; 61 FR 9047, Mar. 6, 1996; 61 FR 13594, Mar. 27, 1996; 65 FR 16723, Mar. 29, 2000]

§ 884.215 Lease requirements.

The Lease shall contain all required provisions specified in paragraph (b) of this section and none of the prohibited provisions listed in paragraph (c) of this section.

(a) *Term of lease.* The term of the Lease shall be for not less than one year. The Lease may (or, in the case of a Lease for a term of more than one year, shall) contain a provision permitting termination upon 30 days advance written notice by either party.

(b) *Required provisions.* The Lease between the Owner (Lessor) and the Family (Lessee) shall contain the following provisions:

ADDENDUM TO LEASE

The following additional Lease provisions are incorporated in full in the Lease between \_\_\_\_\_ (Lessor) and \_\_\_\_\_ (Lessee) for the following dwelling unit: \_\_\_\_\_. In case of any conflict between these and any other provisions of the Lease, these provisions shall prevail.

a. The total rent shall be \$ \_\_\_\_\_ per month.

b. Of the total rent, \$ \_\_\_\_\_ shall be payable by or at the direction of the Department of Housing and Urban Development ("HUD") as housing assistance payments on behalf of the Lessee and \$ \_\_\_\_\_ shall be payable by the Lessee. These amounts shall be subject to change by reason of changes in the Lessee's family income, family composition, or extent of exceptional medical or other unusual expenses, in accordance with HUD-established schedules and criteria; or by reason of adjustment by HUD, or the PHA, if appropriate, of any applicable Allowance for Utilities and Other Services. Any such change shall be effective as of the date stated in a notification to the Lessee.

c. The Lessor shall not discriminate against the Lessee in the provision of services, or in any other manner, on the grounds of race, color, creed, religion, sex, or national origin.

d. The Lessor shall provide the following services and maintenance:

Lessor \_\_\_\_\_  
By \_\_\_\_\_

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Date \_\_\_\_\_  
Lessee \_\_\_\_\_  
Date \_\_\_\_\_

(c) *Prohibited provisions.* Lease clauses which fall within the classifications listed below shall not be included in any Lease.

(1) *Confession of judgment.* Prior consent by tenant to any lawsuit the landlord may bring against him in connection with the Lease and to a judgment in favor of the landlord.

(2) *Distrain for rent or other charges.* Authorization to the landlord to take property of the tenant and hold it as a pledge until the tenant performs any obligation which the landlord has determined the tenant has failed to perform.

(3) *Exculpatory clause.* Agreement by tenant not to hold the landlord or landlord's agents liable for any acts or omissions whether intentional or negligent on the part of the landlord or the landlord's authorized representative or agents.

(4) *Waiver of legal notice to tenant prior to actions for eviction or money judgments.* Agreement by tenant that the landlord may institute suit without any notice to the tenant that the suit has been filed.

(5) *Waiver of legal proceedings.* Authorization to the landlord to evict the tenant or hold or sell the tenant's possessions whenever the landlord determines that a breach or default has occurred, without notice to the tenant or any determination by a court of the rights and liabilities of the parties.

(6) *Waiver of jury trial.* Authorization to the landlord's lawyer to appear in court for the tenant and to waive the tenant's right to a trial by jury.

(7) *Waiver of right to appeal judicial error in legal proceedings.* Authorization to the landlord's lawyer to waive the tenant's right to appeal on the ground of judicial error in any suit or the tenant's right to file a suit in equity to prevent the execution of a judgment.

(8) *Tenant chargeable with costs of legal actions regardless of outcome.* Agreement by the tenant to pay attorney's fees or other legal costs whenever the landlord decides to take action against the tenant even though the court finds in favor of the tenant. (Omission of such clause does not mean

that the tenant as a party to a lawsuit may not be obligated to pay attorney's fee or other costs if he loses the suit.)

### § 884.216 Termination of tenancy.

(a) The owner is responsible for termination of tenancies, including evictions. However, conditions for payment of housing assistance payments for any resulting vacancies must be as set forth in § 884.106(c)(1). Failure of the family to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 CFR part 5, shall be grounds for termination of tenancy. For provisions requiring termination of assistance for failure to establish citizenship or eligible immigration status, including the applicable informal requirements, see 24 CFR part 5 and also for provisions concerning assistance for mixed families (families whose members include those with eligible immigration status, and those without eligible immigration status) in lieu of termination of assistance, and for provisions concerning deferral of termination of assistance.

(b) Termination of tenancy for criminal activity by a covered person is subject to 24 CFR 5.858 and 5.859, and termination of tenancy for alcohol abuse by a covered person is subject to 24 CFR 5.860.

[56 FR 7541, Feb. 22, 1991, as amended at 60 FR 14845, Mar. 20, 1995; 61 FR 13594, Mar. 27, 1996; 61 FR 47382, Sept. 6, 1996; 66 FR 28798, May 24, 2001]

### § 884.217 Maintenance, operation and inspections.

(a) *Maintenance and operation.* The Owner shall maintain and operate the project so as to provide Decent, Safe, and Sanitary housing and he shall provide all the services, maintenance and utilities which he agrees to provide under the Contract, subject to abatement of housing assistance payments or other applicable remedies if he fails to meet these obligations.

(b) *Inspection prior to occupancy.* Prior to occupancy of any unit by a Family, the Owner and the Family shall inspect the unit and both shall certify, on forms prescribed by HUD, that they